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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,264	11/28/2001	Jacques Prodel	45976/DBP/N75	3744

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EXAMINER

HONG, JOHN C

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/997,264	Applicant(s) PRODEL ET AL.	
	Examiner John C. Hong	Art Unit 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
 4a) Of the above claim(s) 11 and 12 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-10, 13-16 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-10 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB1593738 in view of Delannoy (U.S. Patent 4,600,465).

'738 teaches an installation for a circulation of part-carrying pallets, comprising: a support frame for supporting modules for the circulation of the part-carrying pallets, in which said support frame comprises; at least one vertical frame arrangement; and at least two boxes each comprising a plurality of standard profile members, wherein each box is removably fixed on a respective side of said vertical frame arrangement, and wherein each box comprises an upper surfaced portion that receives at least one module that circulates the part-carrying pallets and a lower portion provided with adjustable feet for adjusting a horizontal positioning of said upper surfaced portion. (Figs. 19, 19a, 20 and 32; page 8, lines 105-119)

'738 fails to teach; at least one vertical frame arrangement comprising a plurality of standard profile members rigidly welded together to form a rigid mecano-welded structure ; and at least two boxes each comprising a plurality of standard profile members rigidly welded together to form by a mecano-welded structure.

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Delannoy teaches mechano-welded frame work for steady and rigid structure.(col. 2, lines 31-52)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the structure of '738 by adding the features of Delannoy so as to build steady and rigid structure.

It has been held that a recitation with respect to the manner in which a claimed apparatus is **intended to be employed does not** differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ 2d 1647 (1987)*.

Regarding Claim 2, the limitation of plurality of standard profile members of the vertical frame arrangement and the plurality of standard profile members of the boxes are **commercially available** profile members of steel of type NIP, wherein NIP stands for Normalized I Profile, is self evident that manufacturing with commercially available material (NIP) is well known method.

Response to Arguments

Applicant's arguments filed 4/18/05 have been fully considered but they are not persuasive. (1) the argument about the intended use (for high speed, high level of vibration), it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ 2d 1647 (1987)*.

(2) '738 teaches "at least one vertical frame arrangement" and "at least two boxex) in

Fig. 19

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 571-272-4529. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John C. Hong
Primary Examiner
Art Unit 3726

jh
July 10, 2005